

REMARKS

The Applicants request reconsideration of the rejection.

Claims 34-83 remain pending.

Claims 34-51, 54-57, 60-63, 66-69 and 72-81 stand rejected under 35 U.S.C. §102(e) as being anticipated by Ausubel, U.S. Patent No. 5,905,975 (Ausubel). The Applicants traverse these rejections as follows.

Independent claim 34 has been amended to clarify a feature that is recognized as a difference between the present claims and the disclosure of Ausubel. Thus, step c) of claim 34 now recites the step of “judging, in the server computer, whether a current auction price is equal to or lower than the price received in step b) from each of the plurality of client computers that the bidder thinks acceptable to pay, for each bidder.”

Thus, considered in conjunction with step g) (in response to a judgment in step e) that a competitive state occurs, increasing the auction price by a predetermined value and repeating steps c), d) and e)), claim 34 is distinguishable from Ausubel as follows.

According to the amended claim, the price information received in the server computer is used in the judging step c) to determine whether the current auction price is equal to or lower than the price that the bidder thinks acceptable to pay, for each bidder, wherein the price information is received in step b) from each of the plurality of client computers. Therefore, when repeating steps c), d), and e) in accordance with the judgment in step e) that a competitive state occurs, the repeated step c) judges whether the current auction price (increased in step g)), is equal to or lower than the same price received in step b) from each of the plurality of

client computers that the bidder thinks acceptable to pay, for each bidder. That is, in repeating steps c), d) and e), the price already received before the judging step c) continues to be the basis for the determination that each bidder can continue in the auction.

According to this, the bidder need not stay in front of his or her client computer during the auction to transmit the price information to the server computer. The bidder can obtain the product, for which the bidder sent the price information in advance, with the lowest price possible within the price that the bidder thinks acceptable to pay, upon winning the auction.

In addition, when any competitive state occurs, the server computer need not collect the bidders again, but rather the server computer increases the auction price such that the existing bidders can continue to bid (without continuing to send new bid price information) to determine the successful bidder. The auctioneer can thus save the trouble of collecting bidders while the bidder can save the trouble of actively participating in the auction by sending new price information. The method defined in claim 34 thus provides an effective auction.

Ausubel, on the other hand, does not disclose the features of step b) – step g). In particular, although Ausubel shows that a bidder can obtain a product under a price that the bidder thinks acceptable to pay, Ausubel operates differently when a competitive state occurs. In Ausubel, the auction is reset when the competitive state occurs at a certain auction price. When the auctioneer raises the auction price in response to the competitive state, the bidders must be collected again to continue the auction. That is, any bidder who wishes to remain in the auction must enter price information again, upon receipt of an auction notice

(message). Thus, the auctioneer's action and each bidder's action cannot be saved as in the method defined in claim 34.

In this regard, note Ausubel at col. 11, lines 44-47: "Next, the auctioneer might send a new 'message' indicating that he is willing to sell 1,100,00 shares at \$11 apiece. This time Bidder 1 might choose not to enter any new flexible bid information." In lines 55-57, "Next, the auctioneer might send a new 'message' indicating that he is willing to sell 1,200,000 shares at \$12 apiece. This time Bidder 1 might input a response consisting of . . . " Then, in col. 12, lines 7-10, "Next, the auctioneer might send a new 'message' indicating that he is willing to sell 1,400,000 shares at \$14 apiece. This time, Bidder 1 might choose not to send any new response."

As shown in these passages of Ausubel, every time the auction price is raised, the auctioneer must collect new bidders (who may change) and remaining bidders must send new price information. Accordingly, the invention claimed in claim 34 is different from that disclosed in Ausubel.

Independent claim 37 recites a patentable auction device whose distinguishing features from Ausubel are more clearly recited in the amendment to the third means for judging whether a current auction price is equal to or lower than the price received by the second means from each of the plurality of client computers that the bidder thinks acceptable to pay, for each bidder. In accordance with this amendment, the third, fourth, and fifth means, being repeatedly executed with the auction price increased by a predetermined value, requires that the same price received by the second means from each of the plurality of client computers permits the auction to continue without repeated collection of bidders for new price

information sent by each bidder. Accordingly, claim 37 is patentably distinguishable from Ausubel.

Claim 40 recites a patentable method in which step c) is amended to recite that the judging of whether a current auction price is equal to or lower than a price that a bidder thinks acceptable to pay for the product, is based on the order information received in step b). In conjunction with the repeating of steps c), d) and e) in response to a competitive state and increase of the auction price, the judgment based on the same order information received in step b) distinguishes the claim from Ausubel.

The auction device defined in claim 45 is also distinguishable from Ausubel, in view particularly of the clarifying amendment to the third means for judging, for each bidder, whether a current auction price is equal to or lower than a price that the bidder thinks acceptable to pay for the product, based on the order information received by the second means. Then, the third, fourth and fifth means being repeatedly executed with the increased auction price, sets the judgment of the third means to be based on the same order information received by the second means prior to repeating the functions of the third, fourth and fifth means. Therefore, claim 45 is also distinguishable from Ausubel.

Claims 52-53, 58-59, 64-65 and 70-71 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Ausubel in view of Fisher, U.S. Patent No. 5,835,896 (Fisher). Claims 82-83 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Ausubel in view of Official Notice.

Together with dependent claims 35-36, 38-39, 41-44, 46-51, 54-57, 60-63, 66-69 and 72-81, these dependent claims inherit the patentable features of the

independent claim from which each is derived. Therefore, for brevity, and without admission as to the propriety of the rejections, the Applicants simply note at this time that these dependent claims are patentable for the reasons advanced above.

In view of the foregoing amendments and remarks, the Applicants request reconsideration of the rejection and allowance of the claims.

To the extent necessary, the Applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of Mattingly, Stanger, Malur & Brundidge, P.C., Deposit Account No. 50-1417 (referencing attorney docket no. ASA-672-02).

Respectfully submitted,

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